

Further, the Court enters an Amended Order that reflects the change in the number of households affected by Comcast's proposed changes.

**IT IS ORDERED.**

s/Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: November 25, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on November 25, 2008.

s/Carol A. Pinegar  
Deputy Clerk



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**CITY OF DEARBORN, ET AL,**

**Plaintiff(s),**

**CASE NUMBER: 08-10156**

**HONORABLE VICTORIA A. ROBERTS**

**v.**

**COMCAST OF MICHIGAN III, Inc., ET AL,**

**Defendant(s).**

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**ORDER REFERRING SEVEN QUESTIONS TO  
THE FEDERAL COMMUNICATIONS COMMISSION  
PURSUANT TO THE PRIMARY JURISDICTION DOCTRINE**

On October 3, 2008, the Court stated its intent to refer six questions to the Federal Communications Commission ("FCC") and stayed Plaintiffs' claim under 47 U.S.C. §543(b)(7) pending a ruling from the FCC. See Order dated October 3, 2008.

On October 17, 2008, Plaintiffs and Defendants submitted comments on the proposed questions. (Doc. #50 and #52).

Defendants filed a "Notice of Supplemental Authorities" on November 19, 2008. (Doc. #63). The notice included: (1) a letter from the State of Connecticut Department of Public Utility Control dated November 12, 2008 ("Connecticut Letter") and (2) an order from the Commonwealth of Massachusetts Department of Telecommunications and Cable dated November 17, 2008 ("Massachusetts Order"). The Court assumes Defendants are saying referral to the FCC is unnecessary based on the Connecticut Letter and the Massachusetts Order.

The Connecticut Letter says, "The Department [of Public Utility Control] has

determined that digital transmission of community access channel programming is permissible under Federal law." The Massachusetts Order says, "[b]ased on current federal law, we find that Comcast's channel migration [from the analog to the digital platform] is lawful." However, Massachusetts made clear that if the FCC finds channel migration violates its rules, it will enforce that FCC policy.

Plaintiffs filed a "Response to Comcast Notice of Supplemental Authority" on November 21, 2008. (Doc. #64). They say the Connecticut Letter and the Massachusetts Order are irrelevant.

The Court declines to dismiss Plaintiffs' 47 U.S.C. §543(b)(7) claim based on the Connecticut Letter and the Massachusetts Order. Neither the letter nor the order is binding on this Court, and the FCC has the special competency in matters of cable technology to issue a ruling this Court can rely upon.

The Court refers seven questions to the FCC:

- (1) Does it constitute an "evasion" of applicable rate regulations (or any other regulation) when cable operators: (a) require some subscribers to purchase/lease converter boxes to view public, educational and governmental channels ("PEG channels"); and (b) provide PEG channels in digital format on the basic-service tier while non-PEG channels on the basic-service tier are provided in analog format? (*See In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992 Rate Regulation*, 8 FCC Rcd 5631, 5915-5917 (F.C.C. 1993):

We define a prohibited evasion as any practice or action which avoids the rate regulation provisions of the Act or our rules contrary to the intent of the Act or its underlying policies. We also believe that . . . : (1) implicit rate increases; (2) a significant decline in customer service without a similar decline in price; and (3) deceptive practices such as improper cost shifting or intentionally misstating revenues [are evasions].

- (2) Does the requirement to provide PEG channels on the basic-service tier apply to all cable operators or are cable operators in communities where

rates are subject to "effective competition" (or otherwise deregulated) excluded from this requirement? (See Pl. Response Br. p.19 n.16 "Comcast has argued that the requirement to provide PEG [channels] on [the] basic service tier does not apply in communities where rates are subject to effective competition. Plaintiffs disagree"; see also H.R. Rep. No. 102-628 at 85 (1992) (PEG channels must be "available to all community members on a nondiscriminatory basis"))).

- (3) Does the Court look from the consumer's point-of-view to determine whether: (a) a programming service is part of the basic-service tier; and (b) the proposed digitization of PEG channels but not other channels is "discriminatory" (because e.g., some customers may be required to obtain additional equipment or make special requests for additional equipment to view PEG channels)? (See H.R. Rep. No. 102-628 at 85 (1992) (PEG channels must be "available to all community members on a nondiscriminatory basis"))).
- (4) What is the criteria for a channel to be considered part of the basic-service tier? If cable operators require customers to purchase/lease digital receiving equipment to view PEG channels, are those channels *per se* a separate "service tier" within the meaning of 47 U.S.C. §522(17)?
- (5) Are cable operators precluded from charging for equipment used in connection with the reception of PEG channels on the basic-service tier when equipment is not needed to receive non-PEG channels on the basic-service tier?
- (6) Can PEG channels be digitized, require special equipment to be accessed (or be subject to other burdens with respect to the need to make a special request to receive equipment and the placement of channels), and still be considered carried on the basic-service tier when non-PEG channels on the basic-service tier are not digitized and do not require special equipment to be accessed?
- (7) Is digitization of PEG channels "discriminatory" because some customers may be required to make a special request to obtain additional equipment to view the channels, while customers are not required to obtain additional equipment to view non-PEG channels?

To start the proceedings in the FCC, Plaintiffs must attach this Order to a petition for declaratory ruling and file it with the FCC.

IT IS ORDERED.

s/Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: November 26, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on November 26, 2008.

s/Linda Vertiesl  
Deputy Clerk



**U.S. District Court  
Eastern District of Michigan (Detroit)  
CIVIL DOCKET FOR CASE #: 2:08-cv-10156-VAR-DAS**

Dearborn, City of et al v. Comcast of Michigan III, Incorporated et al    Date Filed: 01/11/2008  
Assigned to: District Judge Victoria A Roberts    Jury Demand: None  
Referred to: Magistrate Judge Donald A Scheer    Nature of Suit: 490 Cable/Satellite TV  
Member case: ([View Member Case](#))    Jurisdiction: Federal Question  
Cause: No cause code entered

**Plaintiff**

**Dearborn, City of**

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**Plaintiff**

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**Plaintiff**

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V.

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V.

**Defendant**

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**Defendant**

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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael S. Ashton**  
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**Defendant**

**Alliance for Community Media**

**Defendant**

**Alliance for Communications Democracy**

Date Filed	#	Docket Text
11/26/2008	<u>69</u>	ORDER Referring Seven Questions To The Federal Communications Commission Pursuant to The Primary Jurisdiction Doctrine. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 11/26/2008)
11/25/2008	<u>68</u>	ORDER denying in part Plaintiffs' (53) Motion for Reconsideration in case 2:08-cv-10156-

		VAR-DAS; denying in part (43) Motion for Reconsideration in case 2:08-cv-10230-VAR-DAS. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 11/25/2008)
11/25/2008	<u>67</u>	AMENDED ORDER. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 11/25/2008)
11/24/2008	<u>66</u>	ORDER Denying (49) and (39) Motion To Certify Order For Interlocutory Appeal. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 11/24/2008)
11/24/2008	<u>65</u>	ORDER Denying (51) and (41) Motion for Reconsideration. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 11/24/2008)
11/21/2008	<u>64</u>	SUPPLEMENTAL BRIEF re (53 in 2:08-cv-10230-VAR-DAS, 63 in 2:08-cv-10156-VAR-DAS) Notice (Other), Notice (Other), Notice (Other) <i>Response to Comcast Notice of Supplemental Authority</i> filed by Sharon Gillette, Dearborn, City of, Bloomfield Township, Meridian, Charter Township of. (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit FCC Letter) Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) (Entered: 11/21/2008)
11/19/2008	<u>63</u>	NOTICE by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated re (57 in 2:08-cv-10156-VAR-DAS, 47 in 2:08-cv-10230-VAR-DAS) Response to Motion,,, (40 in 2:08-cv-10230-VAR-DAS, 50 in 2:08-cv-10156-VAR-DAS) Statement, <i>Notice of Supplemental Authorities</i> (Attachments: # <u>1</u> Index of Exhibits Index of Exhibits, # <u>2</u> Exhibit Exhibit A - Connecticut Department of Public Utility Control Order on PEG Digitization, # <u>3</u> Exhibit Exhibit B - Massachusetts Department of Telecommunications and Cable Order) Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 11/19/2008)
11/12/2008	<u>62</u>	RESPONSE to (51 in 2:08-cv-10230-VAR-DAS, 61 in 2:08-cv-10156-VAR-DAS) Supplemental Brief,,, <i>Response to Notice of Supplemental Authority</i> by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 11/12/2008)
11/08/2008	<u>61</u>	SUPPLEMENTAL BRIEF re (41 in 2:08-cv-10230-VAR-DAS) MOTION for Reconsideration re (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss MOTION for Reconsideration re (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss filed by Sharon Gillette, Dearborn, City of, Bloomfield Township, Meridian, Charter Township of. (Attachments: # <u>1</u> Exhibit FCC Opinion) Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) Modified on 11/10/2008 (DHam). [NOTICE OF SUPPLEMENTAL AUTHORITY] (Entered: 11/08/2008)
11/07/2008	<u>60</u>	NOTICE of Appearance by Robert G. Scott, Jr on behalf of Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Scott, Robert) (Entered: 11/07/2008)
11/07/2008	<u>59</u>	REPLY to Response re (49 in 2:08-cv-10156-VAR-DAS, 39 in 2:08-cv-10230-VAR-DAS) MOTION to Amend and to Certify Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) MOTION to Amend and to Certify Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) filed by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 11/07/2008)

		11/07/2008)
11/07/2008	<u>58</u>	NOTICE of Appearance by Robert G. Scott, Jr on behalf of Comcast of Michigan III, Incorporated, and Comcast of the South, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Scott, Robert) Modified on 11/7/2008 (PMil). (Entered: 11/07/2008)
10/30/2008	<u>57</u>	RESPONSE to (43 in 2:08-cv-10230-VAR-DAS, 53 in 2:08-cv-10156-VAR-DAS) MOTION for Reconsideration re (38 in 2:08-cv-10230-VAR-DAS) Order, (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss MOTION for Reconsideration re (38 in 2:08-cv-10230-VAR-DAS) Order, (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss filed by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/30/2008)
10/29/2008	<u>56</u>	RESPONSE to (49 in 2:08-cv-10156-VAR-DAS, 39 in 2:08-cv-10230-VAR-DAS) MOTION to Amend and to Certify Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) MOTION to Amend and to Certify Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) filed by Sharon Gillette, Dearborn, City of, Bloomfield Township, Meridian, Charter Township of, Warren, City of. (Attachments: # <u>1</u> Exhibit Letter from Congress to FCC 9-30-08) Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Watza, Michael) (Entered: 10/29/2008)
10/29/2008	<u>55</u>	RESPONSE to (41 in 2:08-cv-10230-VAR-DAS) MOTION for Reconsideration re (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss MOTION for Reconsideration re (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss, (44 in 2:08-cv-10156-VAR-DAS) MOTION for Reconsideration re (34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss MOTION for Reconsideration re (34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss filed by Dearborn, City of. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Watza, Michael) (Entered: 10/29/2008)
10/21/2008	<u>54</u>	ORDER Requiring Responsive Pleading. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 10/21/2008)
10/20/2008	<u>53</u>	MOTION for Reconsideration re (38 in 2:08-cv-10230-VAR-DAS) Order, (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss by Sharon Gillette, Dearborn, City of, Meridian, Charter Township of, Bloomfield Township, Warren, City of. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) (Entered: 10/20/2008)
10/17/2008	<u>52</u>	MEMORANDUM re (34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss <i>Plaintiffs' Comments on Proposed Questions to FCC</i> by Sharon Gillette, Dearborn, City of, Meridian, Charter Township of, Bloomfield Township, Warren, City of Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) (Entered: 10/17/2008)
10/17/2008	<u>51</u>	MOTION for Reconsideration re (41 in 2:08-cv-10156-VAR-DAS, 41 in 2:08-cv-10156-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on

		Motion for Leave to File, Order on Motion to Dismiss by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/17/2008)
10/17/2008	<u>50</u>	STATEMENT of Comments on Questions for FCC Primary Jurisdiction by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/17/2008)
10/17/2008	<u>49</u>	MOTION to Amend and to Certify Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/17/2008)
10/17/2008	<u>48</u>	ANSWER to Complaint with Affirmative Defenses <i>Filed by Plaintiffs City of Dearborn, Charter Township of Meridian and Sharon Gillette</i> by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/17/2008)
10/17/2008	<u>47</u>	ANSWER to Complaint with Affirmative Defenses <i>Filed by Plaintiff Charter Township of Bloomfield</i> by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/17/2008)
10/17/2008	<u>46</u>	ANSWER to Complaint with Affirmative Defenses by Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/17/2008)
10/17/2008	<u>45</u>	ORDER STRIKING DOCUMENT, REQUIRING REILING AND SETTING BRIEFING SCHEDULE. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 10/17/2008)
10/14/2008	<u>44</u>	MOTION for Reconsideration re (34 in 2:08-cv-10230-VAR-DAS, 34 in 2:08-cv-10230-VAR-DAS) Order on Motion for Leave to File, Order on Motion to Dismiss by Sharon Gillette, Dearborn, City of, Meridian, Charter Township of, Bloomfield Township, Warren, City of. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) Modified on 10/20/2008 (DHam). [STRICKEN] (Entered: 10/14/2008)
10/08/2008	<u>43</u>	ORDER Clarifying The Court's October 3, 2008 Order. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 10/08/2008)
10/08/2008	<u>42</u>	MOTION Immediate Consideration and Clarification of October 3, 2008 Order by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 10/08/2008)
10/03/2008	<u>41</u>	ORDER Granting in Part and Denying in Part Motion to Dismiss and Granting Motion for Leave to File Supplemental Brief. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 10/03/2008)
09/19/2008	<u>40</u>	SUPPLEMENTAL BRIEF re Set Motion and R&R Deadlines/Hearings, (32 in 2:08-cv-10230-VAR-DAS) MOTION for Leave to File <i>Response Supplemental Memorandum</i> filed by Sharon Gillette, Dearborn, City of, Bloomfield Township, Meridian, Charter Township of, Warren, City of. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) (Entered: 09/19/2008)
09/16/2008		Set Deadlines as to (39 in 2:08-cv-10156-VAR-DAS, 32 in 2:08-cv-10230-VAR-DAS)

		MOTION for Leave to File <i>Supplemental Memorandum on Primary Jurisdiction</i> . Responses due by 9/19/2008 Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 09/16/2008)
09/11/2008	<u>39</u>	MOTION for Leave to File <i>Supplemental Memorandum on Primary Jurisdiction</i> by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 09/11/2008)
08/19/2008		Minute Entry -Motion Hearing held on 8/19/2008 re (19 in 2:08-cv-10156-VAR-DAS, 12 in 2:08-cv-10230-VAR-DAS) MOTION to Dismiss filed by Comcast of Michigan III, Incorporated, Comcast of Macomb, Incorporated, Comcast of Warren, Comcast of the South, Incorporated before District Judge Victoria A Roberts. Disposition: Taken Under Advisement (Court Reporter Janice Coleman) Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 08/20/2008)
07/14/2008	<u>38</u>	REPLY to Response re (19 in 2:08-cv-10156-VAR-DAS, 12 in 2:08-cv-10230-VAR-DAS) MOTION to Dismiss ( <i>revised to show correct page numbering</i> ) filed by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. (Attachments: # <u>1</u> Exhibit Exhibit A - H.R. Rep. No. 98-934) Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 07/14/2008)
07/14/2008	<u>37</u>	REPLY to Response re (19 in 2:08-cv-10156-VAR-DAS, 12 in 2:08-cv-10230-VAR-DAS) MOTION to Dismiss filed by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. (Attachments: # <u>1</u> Exhibit Exhibit A - H.R. Rep. No. 98-934) Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 07/14/2008)
07/07/2008	<u>36</u>	ORDER Granting (28 in 2:08-cv-10230-VAR-DAS, 35 in 2:08-cv-10156-VAR-DAS) Request for Extension of Page Limit, filed by Comcast of Michigan III, Incorporated, Comcast of Macomb, Incorporated, Comcast of Warren, Comcast of the South, Incorporated Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 07/07/2008)
07/07/2008	<u>35</u>	REQUEST <i>Unopposed Request for Page Limit Extension for Reply Brief</i> by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 07/07/2008)
07/02/2008	<u>34</u>	ORDER Setting Hearing on Motion to Dismiss: <b>Motion Hearing set for 8/19/2008 at 2:00 PM before District Judge Victoria A Roberts</b> Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 07/02/2008)
07/01/2008	<u>33</u>	EX PARTE ORDER GRANTING LEAVE TO FILE AMICUS CURIAE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 07/01/2008)
06/30/2008	<u>32</u>	RESPONSE to (19 in 2:08-cv-10156-VAR-DAS, 12 in 2:08-cv-10230-VAR-DAS) MOTION to Dismiss <i>Defendants Motion to Dismiss</i> filed by Sharon Gillette, Dearborn, City of, Bloomfield Township, Meridian, Charter Township of, Warren, City of. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) (Entered: 06/30/2008)
06/30/2008	<u>31</u>	RESPONSE to (12 in 2:08-cv-10230-VAR-DAS) MOTION to Dismiss <i>Memorandum of Law of Amicus Curiae Alliance for Community Media and Alliance for Communications Democracy in Opposition to Defendants' Motion to Dismiss</i> filed by Alliance for Community Media, Alliance for Communications Democracy. Associated Cases: 2:08-cv-10156-VAR-

		DAS, 2:08-cv-10230-VAR-DAS (Morant, Leslie) (Entered: 06/30/2008)
06/27/2008	<u>30</u>	ORDER Granting page extension (21 in 2:08-cv-10230-VAR-DAS) Request filed by Bloomfield Township, Dearborn, City of, Sharon Gillette, Meridian, Charter Township of. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 06/27/2008)
06/27/2008	<u>29</u>	RESPONSE to (21 in 2:08-cv-10230-VAR-DAS, 28 in 2:08-cv-10156-VAR-DAS) Request <i>For Page Limit Extension</i> by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 06/27/2008)
06/27/2008	<u>28</u>	REQUEST <i>For Response Brief Page Limit Extension</i> by Sharon Gillette, Dearborn, City of, Bloomfield Township, Meridian, Charter Township of. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Verran, Cheryl) (Entered: 06/27/2008)
06/05/2008	<u>27</u>	ORDER Setting Briefing Schedule. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 06/05/2008)
06/03/2008		Minute Entry -Settlement Conference held on 6/3/2008 before Magistrate Judge Paul J Komives. Disposition: matter not resolved Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (EBut) (Entered: 06/09/2008)
05/20/2008	<u>26</u>	NOTICE OF SETTLEMENT CONFERENCE BEFORE MAGISTRATE JUDGE KOMIVES 6/3/08 AT 10:00A.M. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (EBut) (Entered: 05/20/2008)
05/06/2008	<u>25</u>	ORDER of Reference to Magistrate Judge Komives: Conduct Settlement Conference. Signed by District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 05/06/2008)
05/06/2008	<u>24</u>	Letter from Judge Roberts Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 05/06/2008)
05/05/2008		Minute Entry -Telephone Conference held on 5/5/2008 before District Judge Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 05/09/2008)
04/30/2008	<u>23</u>	STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by Comcast of Macomb, Incorporated identifying Corporate Parent Comcast Corporation for Comcast of Macomb, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 04/30/2008)
04/30/2008	<u>22</u>	STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by Comcast of Warren identifying Corporate Parent Comcast Corporation for Comcast of Warren. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 04/30/2008)
04/30/2008	<u>21</u>	STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by Comcast of the South, Incorporated identifying Corporate Parent Comcast Corporation for Comcast of the South, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 04/30/2008)
04/30/2008	<u>20</u>	STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by Comcast of Michigan III, Incorporated identifying Corporate Parent Comcast Corporation for Comcast of Michigan III, Incorporated. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 04/30/2008)
04/30/2008	<u>19</u>	MOTION to Dismiss by Comcast of Michigan III, Incorporated, Comcast of the South,

		Incorporated, Comcast of Warren, Comcast of Macomb, Incorporated. (Attachments: # <u>1</u> Exhibit MPSC January 30, 2007 Order)Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Ashton, Michael) (Entered: 04/30/2008)
04/30/2008		Set Deadlines/Hearings: Notice of Telephone Conference set for 5/5/2008 at 4:00 PM before District Judge Victoria A Roberts. The Court will initiate the conference call. Counsel are asked to contact the Court with a telephone number you can be reached at. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 04/30/2008)
04/28/2008	<u>18</u>	EXHIBIT re (1 in 2:08-cv-10230-VAR-DAS) Notice of Removal by Comcast of Warren, Comcast of Macomb, Incorporated Associated Cases: 2:08-cv-10230-VAR-DAS, 2:08-cv-10156-VAR-DAS (Ashton, Michael) (Entered: 04/28/2008)
04/25/2008	<u>17</u>	REQUEST <i>Facilitation</i> by Meridian, Charter Township of. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Esordi, Thomas) (Entered: 04/25/2008)
03/05/2008	<u>16</u>	ORDER granting (14) Motion to Intervene in case 2:08-cv-10156-VAR-DAS; granting (7) Motion to Intervene in case 2:08-cv-10230-VAR-DAS. Signed by Honorable Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LHac) (Entered: 03/07/2008)
03/04/2008		Minute Entry - Telephone Conference held on 3/4/2008 before Honorable Victoria A Roberts. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (CPin) (Entered: 03/07/2008)
02/28/2008	<u>15</u>	NOTICE of Telephone Conference on Pending Motion. Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (LVer) (Entered: 02/28/2008)
02/25/2008	<u>14</u>	MOTION to Intervene by Bloomfield Township. (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit Exh. A Proposed Complaint, # <u>3</u> Exhibit Exhibit A Franchise Agreement Pt. 1, # <u>4</u> Document Continuation Franchise Agreement, Pt. 2, # <u>5</u> Document Continuation Franchise Agreement, Pt. 3, # <u>6</u> Document Continuation Franchise Agreement Pt. 4, # <u>7</u> Exhibit Franchise Agreement Pt. 5, # <u>8</u> Document Continuation Franchise Agreement, Pt. 6, # <u>9</u> Exhibit Exhibit B Code, # <u>10</u> Exhibit Exhibit C Letter to Helwig, # <u>11</u> Index of Exhibits Exhibit D Letter to Subscribers, # <u>12</u> Exhibit Exhibit E Letter to Comcast, # <u>13</u> Exhibit Exhibit F Resolution, # <u>14</u> Exhibit Exhibit G News Release, # <u>15</u> Exhibit Exhibit H Letter to Dingell, # <u>16</u> Exhibit Proposed Order)Associated Cases: 2:08-cv-10156-VAR-DAS, 2:08-cv-10230-VAR-DAS (Hampton, William) (Entered: 02/25/2008)
02/05/2008	<u>13</u>	ORDER OF CONSOLIDATION WITH 08-10230 Signed by Honorable Victoria A Roberts. (DEld) (Entered: 02/06/2008)
01/29/2008	<u>12</u>	STIPULATION AND ORDER Extending Time. Signed by Honorable Victoria A Roberts. (LVer) (Entered: 01/29/2008)
01/28/2008	<u>11</u>	EXHIBIT <i>1</i> - Signed Andrew Afflerbach Affidavit re <u>5</u> Reply to Response to Motion by all plaintiffs (Verran, Cheryl) (Entered: 01/28/2008)
01/25/2008	<u>10</u>	CERTIFICATE OF SERVICE by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated <i>Amended Certificate of Service regarding submission of stipulation and proposed order to Judge Roberts</i> (Ashton, Michael) (Entered: 01/25/2008)
01/25/2008	<u>9</u>	CERTIFICATE OF SERVICE by Comcast of Michigan III, Incorporated, Comcast of the South, Incorporated <i>regarding Stipulation and proposed Order Extending Time submitted to Judge Roberts</i> (Ashton, Michael) (Entered: 01/25/2008)
01/23/2008	<u>8</u>	TRANSCRIPT of Plaintiff's Motion for Preliminary Injunction held on January 14, 2008. (Court Reporter: Janice Coleman) (Number of Pages: 157) (Coleman, J.) (Entered: 01/23/2008)



01/14/2008		Minute Entry -Motion Hearing held on 1/14/2008 re <u>2</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order filed by Dearborn, City of, Sharon Gillette, Meridian, Charter Township of before Honorable Victoria A Roberts. (Court Reporter Janice Coleman) (CPin) (Entered: 02/15/2008)
01/14/2008	<u>7</u>	OPINION AND ORDER on <u>2</u> Motion for Preliminary Injunction and Motion for TRO. Signed by Honorable Victoria A Roberts. (LVer) (Entered: 01/14/2008)
01/13/2008	<u>5</u>	REPLY to Response re <u>2</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order <i>reply to response</i> filed by all plaintiffs. (Attachments: # <u>1</u> Exhibit Affidavit - Andrew Afflerbach) (Verran, Cheryl) (Entered: 01/13/2008)
01/12/2008	<u>4</u>	ATTORNEY APPEARANCE: Michael S. Ashton appearing on behalf of all defendants (Ashton, Michael) (Entered: 01/12/2008)
01/12/2008	<u>3</u>	RESPONSE to <u>2</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order filed by all defendants. (Ashton, Michael) (Entered: 01/12/2008)
01/11/2008	<u>6</u>	NOTICE of Appearance by Joseph Leonard Van Eaton on behalf of all plaintiffs. (DHam) (Entered: 01/14/2008)
01/11/2008	<u>2</u>	MOTION for Preliminary Injunction and MOTION for Temporary Restraining Order by all plaintiffs. (DHam) (Entered: 01/11/2008)
01/11/2008	<u>1</u>	COMPLAINT with exhibits A-N filed by all plaintiffs against all defendants Receipt No: 566249 - Fee: \$ 350. (Attachments: # <u>1</u> Document Continuation # <u>2</u> Document Continuation) (DHam) (Entered: 01/11/2008)

PACER Service Center			
Transaction Receipt			
12/08/2008 13:03:01			
PACER Login:	kd0021	Client Code:	2657.045593
Description:	Docket Report	Search Criteria:	2:08-cv-10156-VAR-DAS
Billable Pages:	9	Cost:	0.72



## Get Ready for the Digital Transition on February 17, 2009 with Comcast.

On February 17, 2009, all broadcast networks will switch over to digital-only broadcasting.

### Current Comcast Customers

If all the TVs in your home are connected to Comcast, relax and we'll take care of the transition for you.

**EXISTING CUSTOMERS**

### Not a Comcast Customer?

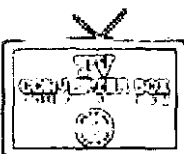
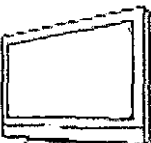

If any of your TVs are connected to an antenna, you'll have some decisions to make. We've developed an easy-to-use tool to help select the solution that's right for you.

**NOT A CUSTOMER**



### Highlights of Digital Broadcast Transition Options

To receive the signals after the transition, consumers using antennas have the following options:

Option	Details	Action Required
 Buy TV Converter Box(es) with Government-issued Coupon(s) <a href="#">Learn more</a>	<ul style="list-style-type: none"> <li>- Government coupons and converter information: <a href="http://www.dtv2009.gov">www.dtv2009.gov</a></li> <li>- Each household is eligible for two \$40 coupons.</li> <li>- Converters cost between \$40-70.</li> <li>- If you choose this option, make sure you plan for EVERY TV in your home.</li> </ul>	<ul style="list-style-type: none"> <li>- Apply for coupons at <a href="http://www.dtv2009.gov">www.dtv2009.gov</a>.</li> <li>- Wait for coupons to arrive in the mail.</li> <li>- Take coupons to retailer.</li> <li>- Choose and purchase converter(s).</li> <li>- May need to purchase new antenna(s).</li> <li>- Connect a converter to each TV.</li> <li>- Connect antenna each converter.</li> <li>- Test all channels to ensure reception (digital reception may be different than analog).</li> </ul>
 Buy New Television(s) <a href="#">Learn more</a>	<ul style="list-style-type: none"> <li>- Digital tuner TVs do not require a converter.</li> <li>- Does not need to be an HDTV.</li> <li>- For more info go to: <a href="http://www.dtv.gov/shopping.html">www.dtv.gov/shopping.html</a></li> <li>- If you choose this option, make sure you plan for EVERY TV in your home.</li> </ul>	<ul style="list-style-type: none"> <li>- Choose and purchase new TV(s).</li> <li>- May need to purchase new antenna(s).</li> <li>- Install new TV in each location.</li> <li>- Connect antenna each new TV.</li> <li>- Test all channels to ensure reception (digital reception may be different than analog).</li> </ul>
 Subscribe to pay TV service <a href="#">Learn more</a>	<ul style="list-style-type: none"> <li>- Comcast customers: You're ready already. You don't need to do a thing.</li> <li>- With one phone call to 1-800-COMCAST, we'll take care of every TV in your home.</li> </ul>	<ul style="list-style-type: none"> <li>- Call Comcast and we'll handle every TV for you.</li> <li>- Installation service available, no hassles.</li> <li>- No antennas or set-top equipment required.</li> <li>- FREE Unlimited Basic Cable for 12 months when you sign up for phone or internet services.</li> <li>- Unlimited Basic Cable for \$10/month for 12 months.</li> <li>- Call 1-800-COMCAST and order today!</li> </ul>

Got questions? We've got answers.

Visit our Frequently Asked Questions (FAQ) page or chat with a Comcast Representative.

#### Useful Links:

- Glossary of DTV related terminology
- Government Coupon Program
- Questions about low power TV stations?

#### General Digital Broadcast Transition Sites:

- [www.dtvanswers.com](http://www.dtvanswers.com)
- [www.dtvtransition.org](http://www.dtvtransition.org)
- [www.getreadyfordigital.com](http://www.getreadyfordigital.com)
- [www.dtv.gov](http://www.dtv.gov)

## 4 Start Over

1 Tell Us About Your TVs



## 2. Compare Your Options

Use the drop down boxes to select and compare the digital options for your TVs.

3 Review Personalized Action Plan

## Keep In Mind

If you choose to buy a new TV, it needs to have a digital tuner, but does NOT need to be HD.

My TVs	Transition Options	Equipment Cost	Monthly Cost	Customer Service	Channels	Antenna Needed
 TV 1	Cable Service (1) ▼	None	~\$10	Yes	~20	No
 TV 2	Converter/No Coupon ▼	\$50-\$70	None	No	Depends on reception	Yes
Total		\$50-\$70	~\$10			

[Proceed to Step 3 →](#)

\* Equipment Cost Range for Converter Options based on \$40 Government Coupon value. Two Coupon Limit per household. Digital Converter retail prices range from \$40 to \$70.

(1) Assumes Limited Basic level of service. Install fee may be required.